

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
CRIMINAL CASE NO. 2:12-cr-00033-MR-DLH-2**

**UNITED STATES OF AMERICA,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 **KENNETH ASHE,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on the Defendant's *pro se* motion for rehearing [Doc. 215] and *pro se* motion for discovery [Doc. 216].

On December 11, 2013, the Defendant was sentenced to a term of 87 months' imprisonment. [Doc. 127]. The Defendant appealed, and on September 9, 2014, the Court of Appeals for the Fourth Circuit affirmed his conviction and sentence. United States v. Ashe, 583 F. App'x 155 (4<sup>th</sup> Cir. 2014).

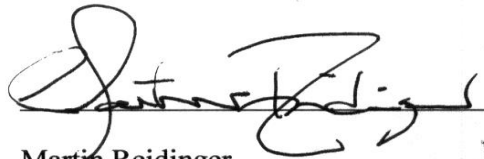
On October 14, 2014, the Court received the present motions from the Defendant. In his first motion, the Defendant requests an *en banc* hearing of his case on appeal. [Doc. 215]. A petition for panel rehearing, however, must be filed with the Court of Appeals, not the district court. See


Fed. R. App. P. 40. Accordingly, this Court lacks jurisdiction to entertain the Defendant's motion.<sup>1</sup>

In his second motion, the Defendant requests copies of certain discovery pertinent to his case, noting that he is "in the process of an appeal." [Doc. 216]. The Defendant has cited no authority pursuant to which he can claim entitlement to any discovery from the Government at this late date. In any event, his appeal is no longer pending with the Court of Appeals. The Defendant's motion for discovery is therefore denied.

**IT IS, THEREFORE, ORDERED** that the Defendant's *pro se* motions [Docs. 215, 216] are **DENIED**.

**IT IS SO ORDERED.**

  
Martin Reidinger  
United States District Judge



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<sup>1</sup> Even if the Court could act upon the Defendant's motion, such motion was untimely, as it was filed more than fourteen days after entry of the judgment. See Fed. R. App. P. 40(a)(1).